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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/858,101

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Gregory D. Gudorf

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EXAMINER

VU, THONG H

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/858,101

Applicant(s)

GUDORF ET AL.

Examiner

Thong H. Vu

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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1. Claims 1-10 are pending.

Response to Arguments

2. Applicant's arguments filed 5/18/06 have been fully considered but they are not persuasive.

A. Applicant argues the prior art does not teach or suggest "one user having multiple stored profiles".

Examiner points out the prior art taught a user profile database or a database contains a plurality of profiles [Burge, a user profile database 18, col 7 lines 2]. It was clear to an ordinary skill in the art that a database stored a multiple profiles.

B. Applicant argues the prior art does not teach or suggest "plurality of usage profiles reflect the monitored subjective preferences for the user"

Examiner points out the prior art taught monitored references [Burge, col 3 lines 9] wherein the references as a plurality of profiles [Burge, a user profile database 18, col 7 lines 2].

C. Applicant argues the prior art does not teach or suggest the user profiles stored at a server in remote system or in a separate from the computer executing the program.

Examiner points out the prior art taught the Weber with a profile database wherein the application program hosted on different computers [Burge, col 3 lines 56-65]. It reminds the applicant that the changing in size, shape , location is not patentable [see *Rearrangement of location of parts- In re Japikse*, 86 U.S.P.Q. 70]

D. Applicant argues the prior art does not teach or suggest “the user interacts with a remote computing system”

Examiner points out the prior art taught the shopper/user connected to Internet via modem or remote sites [Burge, modem, col 4 lines 66; remotely sites, col 5 line 26] It was clear that the computer connected to Internet contains the profile database or plurality of profiles.

E. Applicant argues the prior art does not teach or suggest “different local computing environment”.

Examiner points out the prior art taught “a collection of computer application programs hosted on different computers” as different environment [Burge, col 3 lines 57-65] It was clear that the different computers contain the different profiles or plurality of profiles.

Thus the rejection is sustained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4,8-10 are rejected under 35 U.S.C. § 102(e) as being anticipated by Burge et al [Burge 6,014,638].

3. As per claim 1, Burge discloses a method of displaying on-line content [Burge, on line service provider, col 4 lines 17-30], the method comprising:

monitoring subjective preferences of a user interacting on-line with a remote computing system that is remote from the user, while the user is in one of a plurality of objectively distinguishable local computing environments that is local to the user [Burge, the system monitors and records a user choices and preferences, col 3 lines 45-55];

personalizing and storing a plurality of usage profiles in the remote computing system to reflect the monitored subjective preferences for the user corresponding to each of the local computing environments [Burge, create a profile for the shopper, customized to conform to the shopper's preferences as indicated in the shopper's profile, col 5 line 50-col 6 line 25];

presenting on-line content personalized in accordance with one of the usage profiles in response to the user interacting in an identified one of the local computing environments [Burge, display with options, the shopping environment, col 6 lines 26-49; user's past on-line behavior, col 10 lines 52-67].

4. As per claim 2, Burge discloses determining a unique computing environment by identifying at least one characteristic selected from the group consisting of time of day, day of the week, date, computing location, and computing platform [Burge, select display characteristics and elements, col 5 line 50-col 6 line 25].

5. As per claim 3, Burge discloses creating a new usage profile in response to identifying a unique computing environment monitored subjective preferences [Burge, preferences and unique, col 7 lines 19-37; col 9 lines 25-53; col 10 lines 14-51].

6. As per claim 4, Burge discloses creating a new usage profile for the user in response to a comparison of subjective preferences of the user in a one computing environment with subjective preferences of the user in another computing environment [Burge, create a profile for the shopper, col 5 lines 50-67].

7. As per claim 8, Burge discloses An apparatus, comprising:
a memory [Burge, host computers, col 4 lines 30-47]; and
a program stored in the memory and configured to monitor subjective preferences of a user interacting on-line in a plurality of objectively distinguishable computing environments [Burge, the special software, col 4 lines 48-67], to personalize a plurality of usage profiles to reflect the monitored subjective preferences for the user corresponding to each of the computing environments [Burge, a shopping profile and shopper's preferences, col 5 line 50-col 6 line 25], and to present on-line content personalized in accordance with one of the usage profiles in response to the user interacting in an identified one of the computing environments [Burge, customized or display with options through the shopping environment, col 6 lines 26-67] .

8. As per claim 9, Burge discloses A program product, comprising:

a program configured to monitor subjective preferences of a user interacting on-line in a plurality of objectively distinguishable computing environments, to personalize a plurality of usage profiles to reflect the monitored subjective preferences for the user corresponding to each of the computing environments, and to present on-line content personalized in accordance with one of the usage profiles in response to the user interacting in an identified one of the computing environments [Burge, the special software, col 4 lines 48-67; a shopping profile and shopper's preferences, col 5 line 50-col 6 line 25; customized or display with options through the shopping environment, col 6 lines 26-67]; and

a signal bearing medium bearing the program or memory [Burge, host computers, col 4 lines 30-47].

9. As per claim 10, Burge discloses the signal bearing medium includes at least one of a recordable medium and a transmission medium [Burge, cable connection, col 4 line 67].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burge et al [Burge 6,014,638] in view of Labounty et al [Labounty, 6,871,211 B2].

10. As per claim 5, Burge discloses monitoring or detecting the user behavior [Burge, user's past on-line behavior, col 10 lines 52-67]. However Burge does not explicitly detail

detecting a user **physiological response** to on-line content;

In the same endeavor, Labounty discloses a Intranet Based Medical data distribution system wherein a patient monitoring system provide the physiological information to the monitoring device [Labounty, col 3 lines 32-55]

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of monitoring the physiological information via Internet as taught by Labounty into the Burge's apparatus in order to utilize the remote monitoring process. Doing so would provide a dynamic and flexibility process to collect information for network management and control the user profiles.

11. As per claim 6, Burge-Labounty disclose detecting the user **physiological response** to on-line content further comprises detecting eye movement of the user [Burge col 8 lines 3-20].

12. As per claim 7, Burge-Labounty disclose detecting the user **physiological response** to on-line content further comprises detecting a galvanic skin response as inherent feature of physiological information [see Patton reference].

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thong Vu*, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 6:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Andrew Caldwell*, can be reached at (571) 272-3868. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thong Vu
Primary Examiner
Art Unit 2142

A handwritten signature in black ink, appearing to read 'Thong Vu', with a horizontal line underneath.